Public Prosecution Service of Canada

2011-12

Departmental Performance Report

The Honourable Robert Nicholson
Minister of Justice and Attorney General of Canada

Table of Contents

Message from the Director of Public Prosecutions **1**

SECTION I: ORGANIZATIONAL OVERVIEW **3**

Raison d'être 3
Responsibilities 3
Strategic Outcome and Program Activity Architecture (PAA) 5
Organizational Priorities 6
Risk Analysis 9
Summary of Performance 12
Expenditure Profile 14
Estimates by Vote 14

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME **15**

Strategic Outcome 15
Program Activity #1: Drug, *Criminal Code* and terrorism prosecution program 16
Performance Summary and Analysis of Program Activity 18
Lessons Learned 19
Program Activity #2: Regulatory offences and economic crime prosecution program 20
Performance Summary and Analysis of Program Activity 21
Lessons Learned 24
Program Activity #3: Internal Services 24
Performance Summary and Analysis of Program Activity 25
Lessons Learned 26

SECTION III: SUPPLEMENTARY INFORMATION **27**

Financial Highlights 27
Financial Highlights Charts 28
Annual Expenditures for Travel, Hospitality and Conferences 29
List of Supplementary Information Tables 29

SECTION IV: OTHER ITEMS OF INTEREST **31**

Organizational Contact Information 31
Additional Information 31

Message from the Director of Public Prosecutions

I am pleased to present the *2011-2012 Departmental Performance Report* of the Public Prosecution Service of Canada (PPSC).

The PPSC is an independent and accountable prosecuting authority with a mandate to prosecute offences under federal jurisdiction in a manner that is fair, impartial, and objective, and to provide legal advice to investigative agencies. In fulfilling this mandate, the PPSC makes important contributions to the Canadian criminal justice system.

This report describes the PPSC's work in carrying out this mandate in each program area, as well as the progress that has been made in the past year towards meeting organizational priorities. The report also describes the challenges faced by the PPSC and the steps taken to meet them. Those challenges include a continuing increase in the number of high-complexity cases and mega cases.

PPSC staff work with dedication to fulfill our mandate. Through their efforts, they exemplify the PPSC's values of respect, integrity, excellence, and leadership.

Brian Saunders
Director of Public Prosecutions

SECTION I: ORGANIZATIONAL OVERVIEW

Raison d'être

The Public Prosecution Service of Canada[1] (PPSC) is an independent prosecution service mandated to prosecute offences under federal jurisdiction. Its sole strategic outcome is the prosecution of criminal and regulatory offences under federal law in a manner that is independent, impartial and fair.

The PPSC plays an integral role in the criminal justice system, promoting due process and working to safeguard the rights of all those who come into contact with the system.

The benefits to Canadians from the work carried out by the PPSC include:

- providing legal advice to federal investigative agencies and government departments on the criminal law implications of investigations and prosecutions;
- ensuring the appropriate enforcement of federal laws through principled and independent decisions by prosecutors; and
- maintaining confidence in the administration of justice through professionally conducted prosecutions that result in a judicial determination on the merits of the evidence.

Responsibilities

The PPSC undertakes key duties on behalf of the Attorney General of Canada. These key duties, to be carried out in an objective and non-partisan manner, are:

- **The duty to act independently in making decisions related to criminal prosecutions** – This constitutional principle recognizes that decisions to prosecute, stay proceedings or launch an appeal must be made solely in accordance with legal criteria. The public interest must be taken into account, but not considerations of a partisan political nature.
- **The duty to act independently in providing prosecution-related legal advice** – While prosecution-related advice to law enforcement and other federal investigative agencies will take into account the agency's legal and policy setting, prosecutors cannot be drawn into the agency's policy making and program administration such that their ability to provide impartial, accurate and effective legal advice is undermined.

1 *Office of the Director of Public Prosecutions* (ODPP) is the PPSC's legal title, whereas *Public Prosecution Service of Canada* (PPSC) is its applied title.

Areas of Prosecution

The PPSC prosecutes cases under federal statutes that are referred to it by the Royal Canadian Mounted Police (RCMP), other federal investigative agencies, and provincial and municipal police forces.

It is responsible for the prosecution of all drug offences under the *Controlled Drugs and Substances Act*, regardless of whether a federal, provincial, or municipal police agency lays the charges, in all provinces except Quebec and New Brunswick[2]. In the latter two provinces, the PPSC is responsible for drug charges laid by the RCMP only.

In all provinces and territories, the PPSC prosecutes offences under federal statutes aimed at protecting the environment and natural resources as well as the country's economic and social health (e.g., *Fisheries Act*, *Income Tax Act*, *Copyright Act*, *Canada Elections Act*, *Canadian Environmental Protection Act*, *Competition Act*, *Customs Act*, *Excise Act*, and *Excise Tax Act*), offences involving fraud against the government, capital market fraud offences, along with conspiracies and attempts to violate any of these statutes. In total, over 250 federal statutes contain offences that fall under the PPSC's jurisdiction to prosecute. However, the PPSC is called upon to regularly provide prosecution services under approximately 60 of those statutes.

In the three territories, the PPSC prosecutes all *Criminal Code* offences as well as offences under all other federal legislation and certain territorial statutes. In the provinces, the PPSC has jurisdiction to prosecute a limited number of *Criminal Code* offences, including those related to terrorism, criminal organizations, money laundering, proceeds of crime, and fraud. Under arrangements with the provinces, the PPSC may prosecute *Criminal Code* offences that are otherwise within provincial jurisdiction when the accused also faces charges within federal jurisdiction.

Where required, the PPSC also provides prosecution-related advice to investigators for prosecutions within its jurisdiction. Such advice continues to be crucial to ensure that investigative techniques and procedures are consistent with evolving rules of evidence and protections under the *Canadian Charter of Rights and Freedoms*. The advantage of early prosecutorial advice is that it reduces the risk that operational decisions, such as those about methods of obtaining evidence, will detrimentally affect the admissibility of evidence at trial or the constitutional rights of Canadians.

2 In New Brunswick, the RCMP acts as the provincial police and also provides police services to some municipalities.

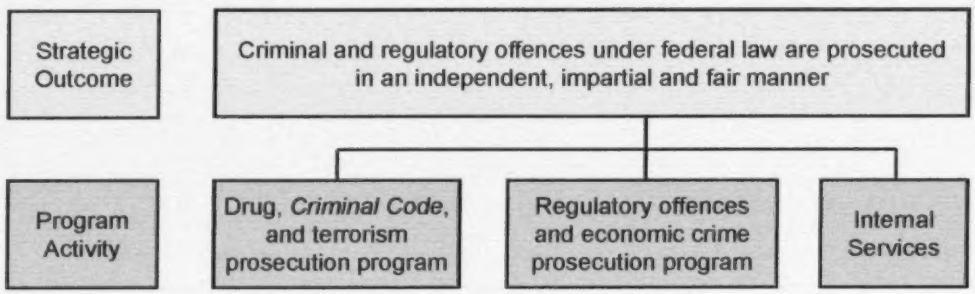
Organization

The PPSC is a national prosecution service with a network of offices across Canada. As of March 31, 2012, the PPSC had 988 employees, the majority of whom were staff prosecutors, paralegals, Crown Witness Coordinators[3] in its northern offices, and the support staff who assist them. The remainder included senior managers, administrators and corporate services staff.

The PPSC also retains the services of private sector legal agents in locations where it does not have an office or where it is impractical or otherwise not cost-effective for staff counsel to handle cases. The work of agents is overseen by the PPSC's Agent Affairs Program. The Program includes a centralized support unit at headquarters, as well as agent supervision units located in each regional office which are responsible for the day-to-day management of agents. The PPSC currently retains some 210 standing agent firms across Canada, representing approximately 492 individually-appointed counsel. In 2008-09, the PPSC introduced fixed-term agreements for agents, replacing indeterminate appointments. Under this regime, any law firm or lawyer interested in becoming an agent can apply for a five-year term when an opening occurs.

Strategic Outcome and Program Activity Architecture (PAA)

The PPSC has one strategic outcome as illustrated in its PAA below. It includes two broad prosecution program activities as well as Internal Services.


Strategic Outcome
Criminal and regulatory offences under federal law are prosecuted in an independent, impartial and fair manner
Program Activity
Drug, *Criminal Code*, and terrorism prosecution program
Regulatory offences and economic crime prosecution program
Internal Services

3 The role of Crown Witness Coordinators is to explain the criminal justice process to victims and witnesses, prepare them to testify in court and, where required, bridge the cultural gap between prosecutors, who are generally from southern Canada, and victims and witnesses from the North.

Organizational Priorities

A summary of the PPSC's progress in achieving its organizational priorities for 2011-12 is provided below.

Summary of Progress Against Priorities

Priority	Type
Prosecuting offences under federal law: A central element of the PPSC's legal mandate is to prosecute matters on behalf of the Crown that are within the jurisdiction of the Attorney General of Canada	Ongoing

• The PPSC handled 78,698 litigation files in 2011-12. This figure includes 48,140 files opened during the year, as well as 30,558 carried over from previous years. These files include prosecutions in five broad areas:
  • drug offences;
  • serious *Criminal Code* offences, including terrorism, money laundering, proceeds of crime, criminal organization offences and fraud;
  • offences under federal legislation intended to protect national security, such as war crimes and security of information;
  • all *Criminal Code* offences in the three Northern territories; and
  • economic crime and regulatory offences.	

Priority	Type
Providing legal advice to investigative agencies: Prosecution-related advice during police investigations, particularly large-scale and complex investigations, is crucial to ensure that investigative techniques and procedures conform with the evolving rules of evidence and the protections found in the *Canadian Charter of Rights and Freedoms*.	Ongoing
• PPSC counsel provide advice on all types of federal prosecutions, covering issues such as the disclosure of evidence required by law, and obtaining key evidence gathering orders, such as wiretap authorizations and orders to produce evidence. The operational priority for prosecution-related advice provided during investigations is primarily focused on highly complex and mega cases. • The PPSC's inaugural survey of investigative agencies carried out in 2008-09 and published in 2009-10, revealed that respondents were unanimous in confirming the usefulness of PPSC prosecutors' legal advice on matters of a general nature, as well as on particular investigation files. Respondents repeatedly commented that legal advice can help investigators determine appropriate charges, assess the admissibility of evidence to support those charges, draft judicial authorizations, prepare for and testify in court, and avoid errors that can negatively impact on the introduction of evidence. A similar survey or focus groups will be conducted again in late 2012-13.	

Organizational Priorities *(continued)*

Priority	Type
Contributing to strengthening the criminal justice system: The PPSC contributes to strengthening the criminal justice system across Canada and improving its efficiency.	Ongoing
• The PPSC continued to participate fully in federal / provincial / territorial (FPT) forums, and contributed to law enforcement efforts at the international level, in order to address criminal justice issues of common interest. It also contributed to improving the criminal justice system by providing legal advice during investigations, by providing legal training to prosecutors and law enforcement investigators and, where requested, by providing prosecution-related advice on amendments drafted by the Department of Justice Canada to federal statutes relevant to the criminal justice system. • Collaboration with key stakeholders in the criminal justice system is an ongoing priority for the PPSC. The FPT Heads of Prosecution Committee is a forum for federal and provincial prosecution services to address common issues and challenges. The Director of Public Prosecutions is permanent co-chair of the Committee and the PPSC acts as its secretariat. The Committee held two meetings in 2011, one of which was organized jointly with the Office of the Ministry of the Attorney General of Ontario and the second with the Office of the Director Public Prosecutions of Newfoundland and Labrador. The Committee also issued a report on the prevention of wrongful convictions in September 2011, a follow-up to its 2005 report. The report can be found under Publications on the PPSC's Intranet site at *http://www.ppsc-sppc.gc.ca/eng/pub/ptj-spj/index.html.*	

Priority	Type
Measuring organizational performance: Sound performance measurement processes and tools help manage operational performance and enhance the planning process.	Previously committed to
• In 2011-12, the PPSC finalized standards for services provided to police and federal investigative agencies. In addition to the PPSC's Federal Prosecution Service Deskbook, the service standards establish what investigative agencies may expect from PPSC legal staff regarding such matters as the PPSC's normal business hours, response time for a request for a legal opinion, and when an agency can expect to be consulted by the PPSC. The standards were implemented on June 1, 2012. Tools will be developed to monitor the extent to which the service standards are being achieved. • The PPSC also simplified and restructured various data sets in its case management system, in order to improve data quality.	

Organizational Priorities *(continued)*

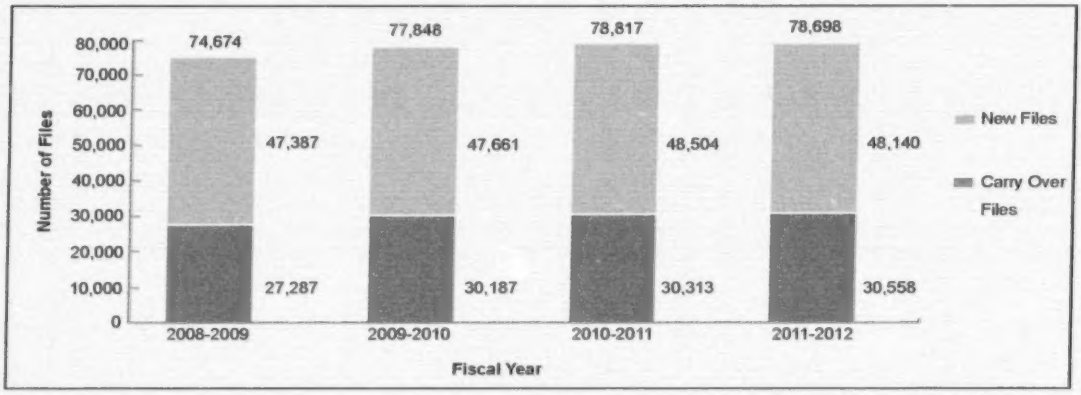
Priority	Type
Engagement and employee development: The PPSC values and appreciates the contribution of its employees and seeks to offer rewarding careers with diverse opportunities and intellectually challenging work.	Previously committed to
• In 2011-12, the PPSC made considerable progress on this priority. Phase I of the LA (Law) Group Project "Ensuring Excellence" was completed. Initiatives in this phase included: introducing generic work descriptions for prosecutors; implementing competency profiles; and standardizing how prosecutors are hired at each level in order to develop a career path for prosecutors in the PPSC. • Work continued on the PPSC's learning framework. A learning policy was finalized and new systems and tools were implemented to ensure a fair and consistent learning approach across the organization. • The PPSC implemented its National Employment Equity and Diversity Strategic Framework, Policy and Interim Action Plan. A workforce census and voluntary self-identification campaign was conducted for the purposes of employment equity. It revealed the PPSC is representative in all four designated employment equity groups, although gaps remain in certain areas.	

Priority	Type
Safety and security of employees: Ensuring the safety and security of its employees is of paramount importance to the PPSC. Due to the nature of their work, PPSC employees may be exposed to intimidation and direct and indirect threats to their safety.	Previously committed to
• During 2011-12, the PPSC continued to work on the implementation of its Employee Protection Program – a framework and resources for the prevention of, as well as the management and response to, threats or acts of intimidation targeting PPSC staff.	

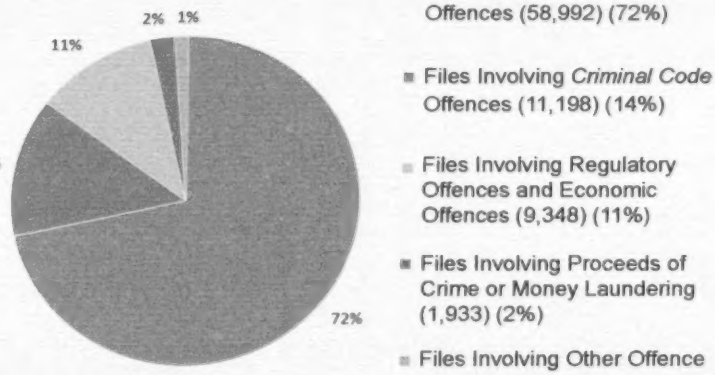
Risk Analysis

Operational Trends

The PPSC's total volume of litigation files for 2011-12 was 78,698, compared to 78,817 litigation files handled in 2010-11. The total for 2011-12 includes 48,140 files opened during the year as well as 30,558 files carried over from previous years.



Approximately 89% of all litigation files were within the drug, *Criminal Code* and terrorism offences prosecution program (which includes organized crime offences), whereas close to 11% involved the prosecution of federal regulatory offences and economic crime.

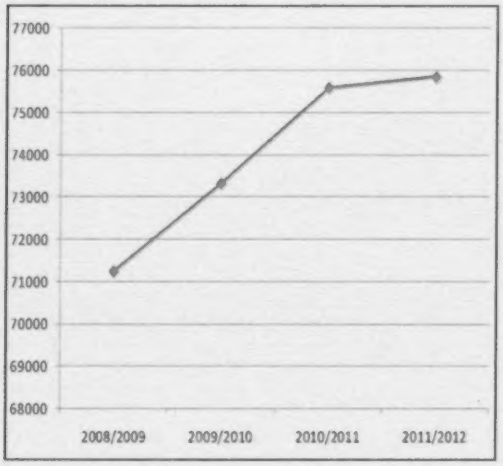

2%
1%
11%
14%
72%
Files Involving Drug Related Offences (58,992) (72%)
Files Involving Criminal Code Offences (11,198) (14%)
Files Involving Regulatory Offences and Economic Offences (9,348) (11%)
Files Involving Proceeds of Crime or Money Laundering (1,933) (2%)
Files Involving Other Offence Types (1,018) (1%)

The pie chart shown here provides a further breakdown of files by offence types[4].

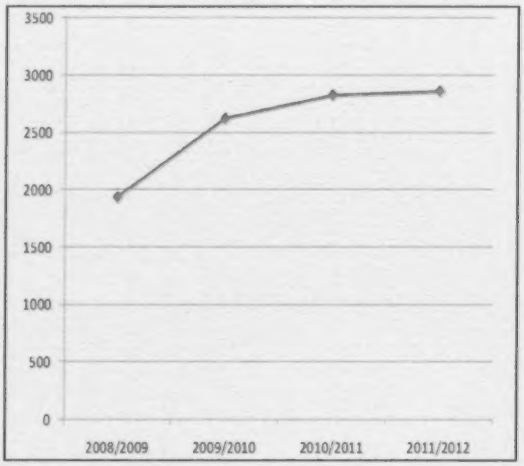
The PPSC does not control the number or type of cases referred to it for prosecution by the police and investigative agencies that lay charges under federal statutes. Its workload is largely based on these agencies' decisions regarding investigative priorities, tactics and resource allocations. As a result, increases in enforcement resources affect the nature and volume of the PPSC's caseload. Similarly, changes in police tactics to focus on the upper echelons of organized crime groups rather than on individuals in the lower ranks will affect the complexity, duration and cost of prosecutions.

4 The total number of files shown in the pie chart exceeds 78,698 files since the percentages relate to offence types. Individual litigation files often include multiple offences falling under more than one offence type.

The PPSC uses a risk assessment grid based on the complexity of litigation files. The analysis of files handled from 2008-09 to 2011-12 reveals that, over this four-year period, files of low and moderate complexity increased by 6.5%, while high-complexity and mega files increased by 47.4%.



Number of "Low" and "Moderate" complexity files over the last four years



Number of "High" and "Mega" complexity files over the last four years

High-complexity and mega cases absorb a disproportionate share of the PPSC's resources. In many instances, a single mega case can absorb more prosecutorial resources than several hundred low complexity cases. For example, drug mega cases and drug cases of high complexity handled by staff prosecutors represented only 2.24% of the drug litigation caseload in 2011-12 but 36% of the time recorded by PPSC staff counsel and paralegals for drug-related litigation activities. This demonstrates how a small increase in the number of organized crime cases in response to strengthened law enforcement efforts across Canada can lead to a significant increase in the demand for prosecutorial resources. As well, although high-complexity and mega cases in the category of regulatory and economic crime prosecutions represented only 11.8% of the total caseload in that area of prosecutions in 2011-12, these files accounted for approximately 60% of overall time recorded in this category of prosecution files handled during the fiscal year by staff prosecutors and paralegals.

External and Internal Influences Facing the PPSC

***International crime networks*:** The globalization of crime networks poses significant dangers to national and global security. These networks engage in such activities as drug trafficking, money laundering, trafficking in human beings, terrorism, and fraud. This global reality makes it imperative for the PPSC and investigative agencies to work effectively with international partners to address the serious threats posed by international crime networks.

The PPSC continues to work with such international bodies as the International Association of Prosecutors, the Heads of Prosecuting Agencies Conference, the International Network to Promote the Rule of Law, the United Nations Office on Drugs and Crime and the *Centro de Estudios de Justicia de las Americas* (based in Santiago, Chile).

***Challenging conditions in the North*:** PPSC prosecutors and Crown Witness Coordinators assigned to the North face a unique set of challenges. These include frequent travel to small isolated communities for circuit courts, resulting in extended absences from their homes and families; routine exposure to the traumatic experiences of victims and witnesses due to high rates of violent crime and victimization; and communication difficulties with victims and witnesses stemming from language and cultural barriers. Despite these challenges, work in the North offers many professional and personal opportunities for staff prosecutors and Crown Witness Coordinators.

***Resourcing issues*:** In 2011-12, the PPSC had to realign budgetary resources to cover incremental salary requirements that have not been funded since the operating budget freeze announced in Budget 2010.

Since its creation in December 2006, the PPSC has relied on the Department of Justice Canada to provide transactional services to most PPSC regional offices, and to maintain systems infrastructure and operations, under the terms of a memorandum of understanding (MOU). In late 2011-12, a third party was retained by both organizations to conduct an assessment of the internal services provided under the MOU, document the costs of providing these services, and develop recommendations for improving service delivery.

Summary of Performance

2011-12 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
167.9	186.6	156.4

The total budgetary authorities were $18.7M higher than planned spending because they included frozen allotments[5] of $6.3M for the Federal Policing initiative, $6.5M for the mandatory minimum penalties for serious drug offences, and an anticipated operating surplus of $5.9M.

The total budgetary authorities were $30.2M higher than actual spending because they included the following elements:

- frozen allotments totalling $13.2M (i.e., $6.3M for the Federal Policing initiative and $6.9M set aside for the relocation of offices in 2012-13); and
- an operating surplus of $17M which included $6.5M for the mandatory minimum penalties for serious drug offences that were only released at the end of the fiscal year following the passage of the *Safe Streets and Communities Act*, and a surplus of $10.5M.

2011-12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
1000	913	87

5 Frozen allotments are not permitted to be spent until specific conditions established by the Treasury Board are met.

Progress Toward Strategic Outcome

Progress achieved toward the PPSC's Stategic Outcome is described in Section II below.

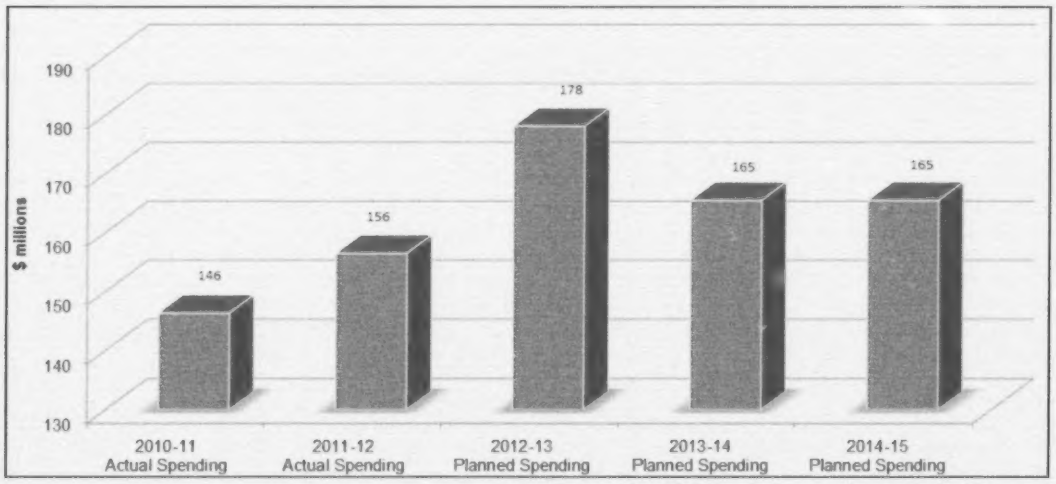
Performance Summary, Excluding Internal Services

Program Activity	2010–11 Actual Spending	2011–12 ($ millions)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Program Activity #1: Drug, *Criminal Code*, and terrorism prosecution program	111.9	127.1	121.0	136.5	117.1	Social Affairs: A Safe and Secure Canada
Program Activity #2: Regulatory offences and economic crime prosecution program	13.2	18.5	19.6	19.2	14.0	
Total	**125.1**	**145.6**	**140.6**	**155.7**	**131.1**	

Performance Summary for Internal Services

Program Activity	2010–11 Actual Spending	2011–12 ($ millions)			
		Main Estimates	Planned Spending	Total Authorities	Actual Spending
Internal Services	21.3	26.6	27.3	30.9	25.3

Expenditure Profile



The significant changes in spending are as follows:

- The $10M increase in actual spending in 2011-12 as compared to 2010-11 was due to additional personnel costs and employee benefits plan for new staffing, severance pay and termination benefits disbursements, and increased spending for leasehold improvements and Crown agents.

- The increase in planned spending of $22M in 2012-13 as compared to 2011-12 actual spending is due to the projected relocation of offices, available funding for the mandatory minimum penalties for serious drug offences, and increased spending for Employee Benefit Plans in 2012-13

- The $13M decrease in planned spending for 2013-14 is due to the elimination of an operating surplus, reduced spending on office relocations, and reductions stemming from Budget 2011.

Estimates by Vote

For information on the PPSC's organizational votes and/or statutory expenditures, please see the Public Accounts of Canada 2012 (Volume II). An electronic version of the Public Accounts 2012 is available on the Public Works and Government Services Canada's Website.[6]

6 See Public Accounts of Canada 2012, http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html.

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

The PPSC has one Strategic Outcome: *Criminal and regulatory offences under federal law are prosecuted in an independent, impartial and fair manner.* It has identified three performance indicators to monitor the extent to which this outcome is achieved in the conduct of its prosecutorial duties, namely, the number of judicial stays for abuse of process; of successful malicious prosecution lawsuits; and of substantiated complaints regarding the PPSC's independence, impartiality or fairness.

Performance Indicators	Targets	2011-12 Performance
Number and nature of judicial stays for abuse of process based on the conduct of a federal prosecutor	Zero	Zero
Number and percentage of successful malicious prosecution lawsuits	Zero	Zero
Number and nature of substantiated complaints regarding the PPSC's independence, impartiality or fairness	Zero	Zero

Judicial stays for abuse of process involve a disposition where the court does not allow a prosecution to proceed because of objectionable police or prosecutorial conduct and/or a violation of the rights of the accused.

Plaintiffs suing Crown prosecutors for malicious prosecution must prove, among other matters, that the prosecution was undertaken without reasonable and probable cause, and was motivated by malice or a primary purpose other than that of carrying the law into effect.

The nature of complaints regarding the PPSC's independence, impartiality or fairness may include, but are not limited to, expressions of dissatisfaction with a PPSC service, procedure, policy or practice, or with the conduct of a PPSC employee or a Crown agent. Any complaints received by Chief Federal Prosecutors are investigated and responded to by regional offices and the Office of the Corporate Counsel. During 2011-12, the PPSC drafted a formal policy and process for the submission of such complaints and for their consideration by the PPSC. Following final approval by PPSC Executive Council, the policy will come into effect in October 2012.

The PPSC achieved its performance targets with respect to its Strategic Outcome, as indicated by the fact that no instances of these indicators occurred during 2011-12, or during any year since its creation.

Program Activities

The role of a prosecutor is not to win a conviction at any cost but to put before the court all available, relevant, and admissible evidence necessary to enable the court to determine the guilt or innocence of the accused. Hence, the performance indicators and results for both the Drug, *Criminal Code* and Terrorism Prosecution Program (PA #1) and the Regulatory Crime and Economic Prosecution Program (PA #2) are based on the extent to which prosecutions result in a determination on the merits of the evidence.

A case is decided on its merits when:

- a judge or jury determines the guilt or innocence of an accused person after a trial;
- a judge determines after a guilty plea that a conviction is appropriate; or
- a Crown prosecutor stays or withdraws a charge as a result of an assessment that the case does not meet the test for prosecution, or as result of a plea of guilty being entered to a serious charge rendering proceedings on a less serious charge redundant.

Cases not decided on the merits are those that are stayed or quashed by the Court, and for which, as a result, there is no outcome decided by a judge or jury based on the evidence of guilt or innocence. A judicially imposed stay will generally mean discontinuance or permanent suspension of the proceedings.

The following pages describe the PPSC's three Program Activities, as well as results achieved and performance highlights for 2011-12.

Program Activity #1: Drug, *Criminal Code* and terrorism prosecution program

This program supports the protection of society against crime through the provision of legal advice and litigation support during police investigations, and the prosecution of:

(1) all drug offences under the *Controlled Drugs and Substances Act* and any related organized crime offences throughout Canada, except in Quebec and New Brunswick, where the PPSC prosecutes such offences only where charges are laid by the RCMP;

(2) proceeds of crime offences;

(3) pursuant to understandings with the provinces, *Criminal Code* offences where they are related to drug charges;

(4) all *Criminal Code* offences in the three territories;

(5) terrorism offences; and

(6) war crimes and crimes against humanity offences.

This program activity also involves the promotion of federal/provincial/territorial cooperation on criminal justice issues of mutual concern.

2011-12 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
121.0	136.5	117.1

2011-12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
616	587	29

Program Activity Performance Summary

Expected Results	Performance Indicators	Targets	Actual Results		
Litigation files that are prosecuted are decided on merit	% of all litigation files that are decided on merit (i.e., by most serious outcome of guilty plea, guilty plea (other / lesser offence), conviction, conviction (other / lesser offence), withdrawal, stay of proceedings (Crown), discharge, acquittal)	Not applicable	**Decisions**	**# of files**	**% of total files**
			Guilty plea	17,034	53.5%
			Guilty plea (other/lesser offence)	1,072	3.4%
			Conviction	2,745	8.6%
			Conviction (other/lesser offence)	85	0.3%
			Withdrawal	6,638	20.9%
			Stay of proceedings (Crown)	3,334	10.5%
			Discharge	283	0.9%
			Acquittal	616	1.9%
			Total	**31,807**	**100.0%**
Disposition of cases that are not decided on merit	% of litigation files not decided on merit	Not applicable	**Decisions**	**# of files**	**% of total files**
			Stay of proceedings (Court)	250	95.4%
			Quashed	12	4.6%
			Total	**262**	**100.0%**

Performance Summary and Analysis of Program Activity

Drug prosecutions – The PPSC handled 58,972 prosecution files related to offences under the *Controlled Drugs and Substances Act*. Of these, 24,353 files were carried over from previous years, and 34,619 files were new. Overall, drug prosecution files represented 72% of the files that the PPSC prosecuted in 2011-12. Agents handled 35,523 of these files (mainly files of low and moderate complexity) whereas staff prosecutors handled 23,449, of which 54% were of moderate or high complexity, or mega cases.

Drug prosecutions range from simple cases of possession of a few grams of marihuana to complicated schemes to import kilograms of cocaine or to export methamphetamine. As a result, some cases are relatively straightforward, while others raise complex legal issues and require weeks, and sometimes months, of testimony.

Organized crime – The RCMP and other police forces are increasingly focusing resources on organized crime. These investigations are usually complex. Consequently, the PPSC is often called upon to work closely with the police during the investigative stage. This is particularly true of high complexity and mega cases, which are prosecutions of extraordinary scope and complexity that can require the full-time assignment of several prosecutors for lengthy periods. In 2011-12, the PPSC prosecuted 583 cases that included charges related to criminal organizations offences under the *Criminal Code*. While this represented approximately only 2.4% of the number of files prosecuted during the year, the time spent on them amounted to almost 12.65% of total time recorded by PPSC counsel and paralegals.

Proceeds of crime, money laundering and offence-related property – Drug and money laundering offences continued to represent most of the offences that produced or involved proceeds of crime and property used to commit crime ("offence-related property"). In 2011-12, the PPSC handled 1,803 files involving over 3,000 charges of possession of proceeds of crime (1,175 files were carried over from previous years and 628 were new) whereas 130 files included 245 charges related to money laundering (44 files were new and 86 were carried over from previous years). The proceeds at issue ranged from money used to buy drugs from an undercover officer to real estate bought with the proceeds of crime or used to produce drugs. A total of $41.3 millions' worth of proceeds of crime and offence-related property was forfeited during 2011-12.

Anti-terrorism – The Attorney General of Canada has concurrent jurisdiction with provincial attorneys general to prosecute terrorism offences. To date, the PPSC has concluded trial proceedings for four prosecutions under the anti-terrorism provisions of the *Criminal Code*: *R. v. Namouh* in Quebec; *R. v. Khawaja* in Ontario; charges stemming from Project Osage, also in Ontario; and *R. v. Thambithurai* in British Columbia. Convictions were entered in all four proceedings, and appeals are outstanding in *R. v. Namouh*, *R. v. Khawaja*, and six of the prosecutions arising from Project Osage.

At the time of publication, three additional terrorism-related prosecutions were ongoing. In August 2010, charges were laid against three individuals in Ottawa stemming from Project Samossa. In March 2011, charges were laid in *R. v. Hersi* in Brampton, Ontario. As of March 31, 2012, a trial date had not yet been set for either of these matters. In May 2011, charges were laid in Montreal pursuant to the *United Nations Act* and charges of terrorism for the alleged delivery and export of weapons to Lebanon, in association with a terrorist group, were laid in *R v. Diab*. Additional charges pursuant to section 83.2 of the *Criminal Code* were filed in this matter in July 2012.

A case of counter-proliferation, *R. v. Yadegari*, was also prosecuted in Ontario. Mr. Yadegari was convicted of offences under the *Customs Act*, the *United Nations Act*, the *Export and Import Permits Act*, the *Nuclear Safety and Control Act*, and the *Criminal Code*. Mr. Yadegari appealed the convictions and sentence. On April 12, 2011, the Court upheld the convictions but reduced the sentence by three months.

Security of information – The prosecution of Jeffrey Paul Delisle for alleged contraventions of the *Security of Information Act* is under way in Halifax, Nova Scotia. A preliminary hearing has been set for October 2012.

War crimes and crimes against humanity – The PPSC has the responsibility of prosecuting offences under the *Crimes Against Humanity and War Crimes Act*. The PPSC's first prosecution under the Act resulted in the conviction of Désiré Munyaneza of genocide, crimes against humanity and war crimes. Mr. Munyaneza received a life sentence on October 29, 2009. An appeal was filed but has not yet been heard. A second case, *R. v. Mungwarere*, concerns a Rwandan national residing in Windsor, Ontario who was charged in 2009 with genocide. Additional charges of war crimes and crimes against humanity were added in 2010. The trial on these charges started in July 2012.

Prosecutions in Canada's North – In 2011-12, the PPSC was responsible for 9,236 files in the three territories, of which 8,480 involved *Criminal Code* offences. As in the past, a large number of charges involved family violence and sexual assault. Of those files, 7,610 were new, and 1,626 were carried over from previous years. Northern prosecutions involved 518 drug offences, 219 regulatory offences, and 248 territorial offences. Some files involved multiple offences. Of the *Criminal Code* files, 28 were homicide files.

Lessons Learned

In 2010-11, the PPSC participated in a Treasury Board-mandated evaluation of the Anti-Money Laundering/Anti-Terrorist Financing Regime. The study identified the need to address inconsistencies in performance data in order to improve the Regime's compliance with international commitments. In 2011-12, the PPSC worked with its partners to review and refine the Regime's outcomes and performance indicators.

In January 2012, the PPSC held its annual training for Crown Witness Coordinators. The focus of this year's two-day training session was the development of a strategy for pertinent and useful data collection for the Crown Witness Coordinator Program. As well, given the high rates of spousal assault in the territories, a workshop focusing on the cycle of violence and community trauma was presented.

Program Activity #2: Regulatory offences and economic crime prosecution program

This program supports the protection of society against crime through the provision of legal advice and litigation support to police and federal investigative agencies, and the prosecution of:

(1) offences under federal statutes aimed at protecting the environment and natural resources as well as the country's economic and social health (e.g., *Fisheries Act*, *Income Tax Act*, *Copyright Act*, *Canada Elections Act*, *Canadian Environmental Protection Act*, *Competition Act*, *Customs Act*, *Excise Act*, and *Excise Tax Act*);

(2) offences involving fraud against the federal government;

(3) capital market fraud offences; and;

(4) conspiracies and attempts to violate any of these statutes.

This program also includes the recovery of outstanding federal fines and the promotion of federal/provincial/territorial cooperation on criminal justice issues of mutual concern.

2011-12 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
19.6	19.2	14.0

2011-12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
239	182	57

Program Activity Performance Summary

Expected Results	Performance Indicators	Targets	Actual Results		
Litigation files that are prosecuted are decided on merit	% of all litigation files that are decided on merit (i.e., by most serious outcome of guilty plea, guilty plea (other / lesser offence), conviction, conviction (other / lesser offence), withdrawal, stay of proceedings (Crown), discharge, acquittal)	Not applicable	**Decisions**	**# of files**	**% of total files**
			Guilty plea	1,263	68.0%
			Guilty plea (other/lesser offence)	11	0.6%
			Conviction	250	13.5%
			Conviction (other/lesser offence)	3	0.2%
			Withdrawal	132	7.1%
			Stay of proceedings (Crown)	136	7.3%
			Discharge	6	0.3%
			Acquittal	56	3.0%
			Total	**1,857**	**100.0%**
Disposition of cases that are not decided on merit	% of litigation files not decided on merit	Not applicable	**Decisions**	**# of files**	**% of total files**
			Stay of proceedings (Court)	8	72.7%
			Quashed	3	27.3%
			Total	**11**	**100.0%**

Performance Summary and Analysis of Program Activity

Regulatory and economic offences are the second largest category of offences prosecuted by the PPSC, after drug-related offences. Regulatory and economic prosecutions are often complex and resource-intensive. Because of the nature of these cases, specialized teams of prosecutors have been formed in most regional offices.

In 2011-12, the PPSC handled 9,348 files under this program activity, of which 4,248 were carried over from previous years. Approximately $10 million in fines and surcharges were imposed by the courts in relation to concluded cases in 2011-12. Outcomes can also result in remedial and preventative measures that enhance public and environmental health, safety and security.

Bankruptcy – The PPSC prosecutes offences under the *Bankruptcy and Insolvency Act*, as well as fraud offences related to, and uncovered, during the bankruptcy and insolvency process. In 2011–12, the PPSC handled 243 files involving offences under this Act. For example, in the case of *R. v. Bruce Elmore*, the Superintendent of Bankruptcy referred a matter to the RCMP for investigation based upon wrongdoings uncovered by the Trustee. Mr. Elmore, who presented himself as a financial advisor, accepted money from his clients and friends, which he said he was investing in Guaranteed Investment Certificates at TD Canada Trust. Instead, without their consent or knowledge, he used their money to purchase risky stocks. He lost $2.9 million of his investors' funds and had no ability to repay them. He was convicted of offences under the *Bankruptcy and Insolvency Act* and related fraud and theft offences under the *Criminal Code*. He was sentenced to six years of incarceration and ordered to make restitution.

Environment and fisheries – In 2011-12, the PPSC handled 8,588 files dealing with offences under the *Fisheries Act* (3,988 carried over from previous years), and 157 files related to other environmental legislation (65 carried over from previous years). In a number of prosecutions involving Métis or members of First Nations, the accused defended themselves on the basis of a Métis or Aboriginal right to fish or to a challenge to the regulation of Aboriginal fishing by Fisheries and Oceans Canada. In 2011, Clark Builders pleaded guilty in Edmonton to one count of depositing a deleterious substance in water frequented by fish under s.36(3) of the *Fisheries Act*, and was sentenced to pay a fine of $285,000. The charge arose from a discharge of 8-12 million litres of chlorinated water into the North Saskatchewan River.

Canada Labour Code – The PPSC prosecutes *Canada Labour Code* offences following investigations conducted by health and safety officers of Human Resources and Skills Development Canada regarding the protection of workers employed in the operation of federal works, undertakings and businesses. In 2011-12, the PPSC handled 135 such files, of which 72 were carried over from previous years. A number of cases prosecuted by the PPSC involved workplace deaths. For example, in October 2009, an engineer died in a boiler explosion at an Ottawa plant. Charges were laid under the *Canada Labour Code* against Public Works and Government Services Canada, and the prosecution is ongoing. In 2010, an independent contractor died in an excavator that fell from a railway flat car near Thunder Bay. Canadian Pacific Railway pleaded guilty under the *Canada Labour Code* to failing to inform him of foreseeable dangers in the workplace.

Competition law – The PPSC handles prosecutions under the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act*, which are administered and enforced by the Commissioner of Competition, who oversees the Competition Bureau. The PPSC advises at the investigative stage on Competition Bureau files that may lead to prosecutions. In 2011-12, the PPSC handled 70 files dealing with competition law.

Notable proceedings in 2011-12 included a three-month preliminary hearing in a bid-rigging case related to contracts to provide IT services to the federal government and a

variety of guilty pleas and other processes involving alleged price-fixing in retail gasoline markets in the province of Quebec.

Revenue – The PPSC prosecutes offences under all statutes administered by the Canada Revenue Agency (CRA), notably the *Income Tax Act*. Specialized PPSC prosecutors provide advice during the investigative stage, conduct prosecutions throughout Canada, and provide training to investigators. In 2011–12, 518 prosecutions were concluded. A total of $3 million in fines was imposed by the courts during this period.

Capital market fraud – PPSC counsel assigned to Integrated Market Enforcement Teams (IMET) work with members of the RCMP and other investigators, including forensic accountants, who investigate suspected capital market fraud. These IMET units are located in Vancouver, Calgary, Toronto, and Montreal. PPSC counsel provide training and up-to-date developments in relevant areas of law on an ongoing basis, as well as pre-charge and general legal advice and support to IMET teams. They may also support or participate in prosecutions of IMET cases.

The PPSC has concurrent jurisdiction to prosecute fraud charges under the *Criminal Code*. When a fraud charge is laid following an IMET investigation, the attorney general of the province in which the charge is laid has the right of first refusal to prosecute the offence. Where provinces, in the exercise of first refusal, choose not to assume responsibility for a case, the PPSC may assume carriage of the prosecution.

The second trial in Norbourg, a high-profile prosecution led by Quebec's Office of the Director of Criminal and Penal Prosecutions with substantial PPSC support, concluded in 2011–12. Jean Cholette and Serge Beugré were both found guilty and were sentenced to eight years in jail for frauds committed after September 15, 2004, and six years in jail for frauds committed before September 15, 2004. Mr. Cholette is appealing the sentence and Mr. Beugré is appealing the verdict and the sentence.

Corruption of foreign public officials – The PPSC prosecutes offences under the *Corruption of Foreign Public Officials Act* (CFPOA). The PPSC also provides pre-charge advice to the two RCMP units dedicated to the investigation of alleged offences under the CFPOA. The CFPOA was enacted to implement the Organisation for Economic Co-operation and Development (OECD) *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, which was signed by Canada in 1997. The PPSC plays a role as part of the team representing Canada before international forums such as the OECD. In 2011–12, PPSC prosecutors were responsible for the conduct of a prosecution involving allegations of bribes paid to Indian government officials in order to obtain favourable treatment in the awarding of a contract to provide security software to Air India. The accused, Nazir Karigar, pleaded not guilty on September 24, 2012. The trial is ongoing.

Census prosecutions – In 2011–12, the PPSC handled 227 files involving census-related offences under the *Statistics Act*. Following the conclusion of the 2011 Census of Population, 16 charges were laid against individuals under the *Statistics Act* for

refusing to answer questions on the Census of Population questionnaire. In 2010–11, the PPSC prosecuted Sandra Finley under section 31 of the Act in relation to her refusal to answer questions on the 2006 Census of Population long form questionnaire. Ms. Finley challenged the validity of section 31 on the grounds that it violated her constitutional rights. The Provincial Court of Saskatchewan dismissed Ms. Finley's challenge and found her guilty of the offences. In 2011–12, Ms. Finley appealed her conviction and the Saskatchewan Court of Queen's Bench upheld the lower court's decision. Ms. Finley has appealed to the Saskatchewan Court of Appeal. That appeal is pending.

Fine recovery – The PPSC is responsible for administering the National Fine Recovery Program under the terms of an assignment issued by the Attorney General of Canada in 2007. The Program recovers outstanding court-ordered fines under federal statutes through the efforts of eight fine recovery units, located in PPSC regional offices. In 2011–12, the Program recovered almost $7.3 million in outstanding fines. In July 2008, the PPSC entered into an agreement with the CRA to allow the PPSC to recover offenders' outstanding fines by way of set-off against the offenders' income tax refunds and tax credits. In 2011–12, this process permitted the recovery of $982,500, an increase of almost 10% compared to $896,000 collected the previous year. More than 7,300 fines (out of a total of 20,874 outstanding fines) with almost $29 million owing were registered with the CRA's set-off program, an increase of 22% over the previous fiscal year. In 2011–12, 3,600 new fines were added to the system, bringing the total of outstanding fines to almost $131 million. Of these fines, 3,200 were for less than $5,000. At fiscal year end, over $63 million in fines had been recovered since this program was established in late 2002.

Lessons Learned

The 2010 Treasury Board-mandated evaluation of the IMET Initiative found that considerable, sustained effort was still required by the RCMP and the PPSC to monitor the progress of investigations and prosecutions, and identify the reasons for any extraordinary delays. In 2011-12, the PPSC and the RCMP produced a dashboard on file progression which presents information on the time spent on all completed and ongoing investigations and prosecutions, as well as outcomes for completed cases.

Program Activity #3: Internal Services

2011-12 Financial Resources ($ millions)

Planned Spending	Total Authorities	Actual Spending
27.3	30.9	25.3

2011-12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
145	145	0

Performance Summary and Analysis of Program Activity

Internal Services are comprised of a range of corporate functions that support the above two program activities and ensure that the PPSC's corporate accountabilities are met. Key performance highlights for 2011-12 are as follows:

Financial Management – During 2011-12, the PPSC increased efficiencies for processes related to cost recovery and financial reporting; implemented an internal control framework as required under the Treasury Board *Policy on Internal Control* and the *Policy on Investment Planning-Assets and Acquired Services*; and took over responsibility for procurement in several regional offices, where it had been handled previously by the Department of Justice Canada under the terms of a memorandum of understanding.

Human Resources Management – As part of the ongoing implementation of its five-year People Management Strategy and in support of its organizational priority on engagement and employee development, the PPSC made considerable progress in furthering the LA (Law Group) Ensuring Excellence Initiative (see Organizational Priorities in Section I for description of results).

The PPSC also undertook the first phase of an Employment Systems Review to address under-representation of designated groups by identifying barriers to employment and to recommend strategies for eliminating these barriers.

Communications – The PPSC strives to increase transparency and strengthen public confidence in the administration of justice through products and activities aimed at reaching the media and the public. In 2011-12, it coordinated training for prosecutors to increase their effectiveness as corporate spokespersons as they communicate on matters related to prosecutions.

Administration Services –

Accommodations: In July 2011, the location for the PPSC's new consolidated headquarters was confirmed. Preparation of the new premises is still underway, with the move expected to occur in spring 2013.

Security and Business Continuity: Most elements of the PPSC's Security Program are now well established, providing the PPSC with the necessary tools to fully analyze risks that may affect business continuity or the safety and security of staff. Business continuity plans were developed for each PPSC office to ensure the continued delivery of services in the event of a disruption of operations due to an emergency.

Informal Conflict Management System (ICMS): In partnership with a consultation group comprised of PPSC officials and bargaining agents, the Administration Services developed the framework for the PPSC ICMS program. The program and related policy were communicated to all employees.

Access to Information and Privacy (ATIP) Office – During 2011–12, the ATIP Office developed an ATIP Governance Structure for the organization, in addition to a PPSC-specific *Privacy Policy* and a *Privacy Breach Protocol*. The Governance Structure outlines the roles and responsibilities of all employees and clarifies how the PPSC meets its access to information and privacy obligations. The *Privacy Policy* articulates how PPSC employees and agents are to collect, retain, and disclose personal information. It also outlines the safeguards that must be in place to protect personal information. The *Privacy Breach Protocol* indicates the steps that must be followed in the event of a possible privacy breach. These policies are available on the PPSC's *Internet* site under Access to Information and Privacy, at http://www.ppsc-sppc.gc.ca/eng/atip-aiprp/lar-mlr.html.

Lessons Learned

The PPSC's results for the 2011-12 Management Accountability Framework (MAF) assessments showed overall improvement in management capacity. While areas of management with previous ratings of "acceptable" remained stable, ratings for values and ethics as well as for procurement increased from "opportunity for improvement" to "acceptable". Opportunities for improvement were highlighted for integrated risk management, information management, as well as for investment planning and project management. The PPSC revised its ongoing MAF action plan to continue to strengthen its management processes in general, with particular emphasis on those areas requiring improvement.

SECTION III: SUPPLEMENTARY INFORMATION

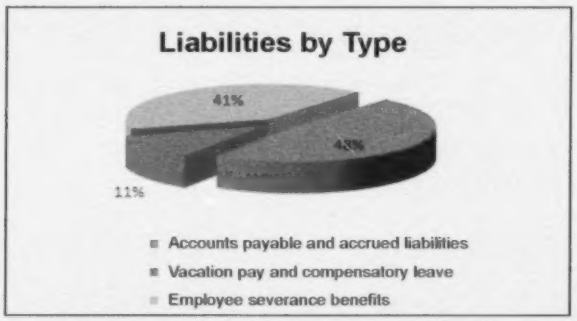
The financial highlights presented within this DPR are intended to serve as a general overview of the PPSC's financial position and operations. The PPSC's financial statements are available on its Website at: http://www.ppsc-sppc.gc.ca/eng/pub/index.html

Financial Highlights

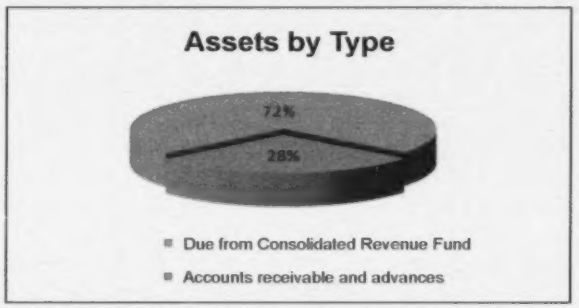
Condensed Statement of Financial Position (Unaudited) As at March 31, 2012 ($ millions)			
	Change %	**2011–12**	**2010–11**
Total liabilities	7.8%	42.9	39.8
Total net financial assets	8.6%	20.3	18.7
Net debt	7.1%	22.6	21.1
Total non-financial assets	28.3%	6.8	5.3
Net financial position	0.0%	-15.8	-15.8
Condensed Statement of Operations and Departmental Net Financial Position (Unaudited) For the Year Ended March 31, 2012 ($ millions)			
	Change %	**2011–12**	**2010–11**
Total expenses	9.5%	190.0	173.5
Total revenues	20.0%	18.6	15.5
Net cost of operations before government funding and transfers	8.4%	171.3	158.0
Net financial position at fiscal year end	0.0%	-15.8	-15.8

Financial Highlights Charts

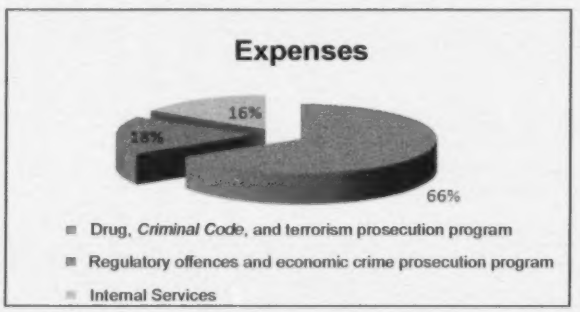
Total liabilities totalled $42.9 million at the end of 2011-12, representing an increase of $3.1 million over the previous fiscal year's liabilities of $39.8 million. Accounts payable and accrued liabilities represented the largest portion (48%) of liabilities.



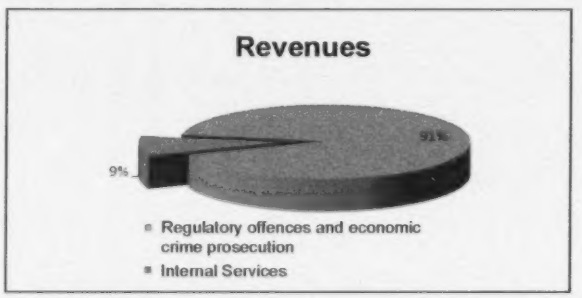
Total assets totalled $20.3 million at the end of 2011-12, representing an increase of $1.6 million over the previous fiscal year's assets of $18.7 million. Seventy-two percent of those assets were amounts due from the Consolidated Revenue Fund.



Total expenses totalled $190.0 million[7] in 2011-12, representing an increase of 9.5% over the previous fiscal year. The majority of funds ($125.4 million or 66%) were spent in relation to the prosecution of drug, organized crime and *Criminal Code* offences, and included expenses related to Crown agents.



Total revenues increased by 20% from 2010-11. The majority of the revenues (91%) stemmed from the recovery of costs from departments and agencies for prosecutorial services under regulatory statutes related to the protection of the environment, natural resources, as well as economic and social health.



7 Total expenses include non-cash expenses such as amortization, allowances and accrual expenditures, and are therefore higher than actual spending.

Annual Expenditures for Travel, Hospitality and Conferences

As required by the Treasury Board Directive for the Management of Expenditures on Travel, Hospitality and Conferences, information on the PPSC's total annual expenditures for each of travel, hospitality and conferences for the fiscal year ending March 31, 2012 can be found on the PPSC's Website, under Publications.

List of Supplementary Information Tables

Electronic supplementary information tables listed in the 2011–12 Departmental Performance Report can be found on the PPSC's website under Publications[8].

- Sources of Respendable and Non-Respendable Revenue
- Internal Audits[9]

8 http://www.ppsc-sppc.gc.ca/eng/pub/index.html

9 Three internal audits were completed in 2011-12: audits of the Ontario and Northwest Territories regional offices and an audit of vote-netted revenue and cost recovery practices. Audit reports are available on the PPSC's web site at: http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s030.

SECTION IV: OTHER ITEMS OF INTEREST

Organizational Contact Information

Public Prosecution Service of Canada
284 Wellington Street – 2nd Floor
Ottawa, Ontario K1A 0H8
613-957-7772
1-877-505-7772
info@ppsc.gc.ca

Additional Information

Public Prosecution Service of Canada Annual Report 2011-2012
http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010

The Federal Prosecution Service Deskbook
http://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg.html

Annual Report on the *Access to Information Act* 2011-2012
http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010

Annual Report on the *Privacy Act* 2011-2012
http://www.ppsc-sppc.gc.ca/eng/pub/index.html#s010